HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 6271 OF 2007

DATED: 29.3.2007

Between:

M/s.Reshma Constructions, rep. By its Managing Partner N.N.Babu

.Petitioner

and

Municipal Corporation of Vijayawada, rep. By its Commissioner, Vijayawada

…Respondent

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.6271 OF 2007

ORAL ORDER:

Heard the learned counsel for the petitioner and Smt.G.Jhansi the learned counsel for the respondent-Municipality.

The writ petition is directed against the apprehended action of the respondent-Municipality in proceeding to demolish the constructions made by the petitioner in the premises bearing D.No.48-19-5/3, 4F, 508A, B, Sri Rama Chandra Rao Nagar, Gunadala, Vijayawada without following due process of law and without passing any orders in this behalf. The petitioner claims to have constructed apartments in the premises after obtaining a sanctioned plan for the purpose. He constructed a multi storied building thereat after permission. The petitioner states that construction has been completed and the property was also assessed to property tax. While so the petitioner contends, the officials of the respondent-Corporation are regularly visiting the petitioner's premises. They visited the premises on 12-03-2007, threatened to demolish the structures without any formal orders, without notice and the authority of law.

The learned counsel for the respondent fairly concedes that the respondent, being a public authority, may not proceed to demolish even unauthorised structures exercising powers under the provisions of the Hyderabad Municipal Corporation

Act,1955, as applicable to the Vijayawada Municipal Corporation, without issuing a notice under the relevant provisions, proposing demolition of the unauthorized constructions.

In the circumstances the writ petition is disposed of directing the respondent-Corporation not to proceed to undertake any demolitions of even unauthorized structures in the petitioner's premises without issuing a notice and passing an order for demolition. The respondent shall ensure that none of its officials indulge in such lawless activities. It is further open and indeed it is the obligation of the respondent to issue a notice, if there are unauthorized constructions and to take steps in exercise of statutory powers with utmost expedition to proceed against unauthorized constructions and to demolish any such unauthorized constructions.

The Respondent shall therefore depute an Officer not below the rank of the City Planner to inspect the petitioner's premises with directions to submit a report to the Municipal Commissioner as to the status of the constructions and whether the constructions are in violation or in deviation of the sanctioned permit. If any such deviations are noticed, the Corporation shall take steps in accordance with law by following due procedure therefor.

The writ petition is disposed of as above. No order as to costs.

GODA RAGHURAM,J

29th MARCH,2007
*TSNR